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## FACSIMILE TRANSMISSION

Total # of Pages 25 (including this page)

TO:	PHONE #:	FAX #:
United States Patent and Trademark Office Mail Stop Amendment Attn: Examiner Lisa V. Cook Art Unit 1641	703-308-0198	703-872-9306

From : Barry S. Wilson

Date : August 18, 2004

Client/Matter No : 071949-4102

User ID No : 3067

## MESSAGE:

Re: U.S. Patent Application No. 09/712,615  
Our Ref.: 071949-4102

Attached please find:

- Transmittal for Response to Notice of Non-Compliant Amendment (2 pgs.);
- Response to Notice of Non-Compliant Amendment (21 pgs.);
- Copy of Notice of Non-Compliant Amendment (1 pg.);
- Authorization to charge Deposit Acct. No. 50-0872 any fees due.

If there are any problems with this transmission or if you have not  
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Operator:	Time Sent:	Return Original To: Germaine Sarda
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AUG 18 2004

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Atty. Dkt. No. 071949-4102

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: BUECHLER et al.

Title: METHODS FOR MONITORING  
THE STATUS OF ASSAYS AND  
IMMUNOASSAYS

Appl. No.: 09/712,615

Filing Date: 11/13/2000

Examiner: Lisa V. Cook

Art Unit: 1641

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b> I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.  _____ Germaine Sarda (Printed Name)  _____ (Signature)  _____ August 18, 2004 (Date of Deposit)
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**AMENDMENT TRANSMITTAL**Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Transmitted herewith are the following:

- ☒ [ X ] Response to Notice of Non-Compliant Amendment (21 pages).
- ☒ [ X ] Copy of Notice of Non-Compliant Amendment (1 page).

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872. If any extensions of time are needed for timely acceptance of papers submitted herewith, applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-0872.

Atty. Dkt. No. 071949-4102

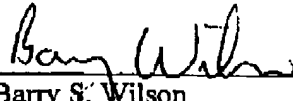
Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date August 18, 2004

FOLEY & LARDNER LLP  
Customer Number: 30542  
Telephone: (858) 847-6722  
Facsimile: (858) 792-6773

By

  
Barry S. Wilson  
Attorney for Applicant  
Registration No. 39,431



## UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS  
UNITED STATES PATENT AND TRADEMARK OFFICE  
P.O. Box 1450  
ALEXANDRIA, VA 22313-1450  
www.uspto.gov

Paper No.

## Notice of Non-Compliant Amendment (37 CFR 1.121)

Please note that the amendment was filed on 02-12-2004, not 12-17-04.

The amendment document filed on 12/17/04 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121, as amended on June 30, 2003 (see 68 Fed. Reg. 38611, Jun. 30, 2003). In order for the amendment document to be compliant, correction of the following item(s) is required. Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted. 37 CFR 1.121(h).

## THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
  - ☐ B. New paragraph(s) should not be underlined.
  - ☐ C. Other \_\_\_\_\_
- ☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
  - ☐ B. Other \_\_\_\_\_
- ☐ 3. Amendments to the drawings: \_\_\_\_\_
- ☒ 4. Amendments to the claims:
- ☐ A. A complete listing of all of the claims is not present.
  - ☐ B. The listing of claims does not include the text of all claims (including withdrawn claims)
  - ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified.
  - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
  - ☒ E. Other: claim 101 incorrect status identifier

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP Sec. 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opa/preognotice/officeflyer.pdf>.

If the non-compliant amendment is a **PRELIMINARY AMENDMENT**, applicant is given ONE MONTH from the mail date of this letter to supply the corrected section which complies with 37 CFR 1.121. Failure to comply with 37 CFR 1.121 will result in non-entry of the preliminary amendment and examination on the merits will commence without consideration of the proposed changes in the preliminary amendment(s). This notice is not an action under 35 U.S.C. 132, and this ONE MONTH time limit is not extendable.

If the non-compliant amendment is a reply to a **NON-FINAL OFFICE ACTION** (including a submission for an RCE), and since the amendment appears to be a *bona fide* attempt to be a reply (37 CFR 1.135(c)), applicant is given a TIME PERIOD of ONE MONTH from the mailing of this notice within which to re-submit the corrected section which complies with 37 CFR 1.121 in order to avoid abandonment. **EXTENSIONS OF THIS TIME PERIOD ARE AVAILABLE UNDER 37 CFR 1.136(a).**

If the amendment is a reply to a **FINAL REJECTION**, this form may be an attachment to an Advisory Action. The period for response to a final rejection continues to run from the date set in the final rejection, and is not affected by the non-compliant status of the amendment.

Olivia L. Cook

571-272-0816

Telephone No.

AUG 18 2004

OFFICIAL

Docket No. 071949-4102

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: BUECHLER et al.  
Title: METHODS FOR MONITORING  
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IMMUNOASSAYS  
Appl. No.: 09/712,615  
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<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b> I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.  <u>Germaine Sarda</u> (Printed Name)  <u>Germaine Sarda</u> (Signature)  <u>August 18, 2004</u> (Date of Deposit)
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**RESPONSE TO NOTICE OF NON-COMPLIANT AMENDMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Non-Compliant Amendment mailed on July 28, 2004,  
attached please find a revised amendment in the above-identified patent application.

A recitation of the pending claims begins on page 2 of this submission; Remarks begin on  
page 8.